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**Conseil de l'Europe**



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**BUREAU OF THE CONGRESS**

**OBSERVATION OF THE CANTONAL ELECTIONS  
IN BOSNIA AND HERZEGOVINA  
14 September 1996**

*Report approved by the Bureau of the Congress  
on 18 November 1996*

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**Members of the Congress delegation**

Mr Alain Chénard (France), Mr Gianfranco Martini (Italy), Mr Kenneth Bodfish (United Kingdom)

## **I. General background to the observation mission**

Having received an invitation in the summer from Mr Van Thijn, Co-ordinator of International Monitoring for the Elections in Bosnia, former mayor of Amsterdam and former Netherlands Minister for the Interior, the Congress decided at its Bureau meeting on 9 September to take part in a mission to observe these elections, as part of the overall observation mission organised by the OSCE. A Parliamentary Assembly delegation also participated in the observation mission.

The Congress was represented by the following delegation:

- Alain Chénard (France)
- Gianfranco Martini (Italy)
- Kenneth Bodfish (United Kingdom)
- Athanassios Kantarzis (Greece) and his interpreter, Eleni Stamati.

The CLRAE Secretariat was represented by Ulrich Bohner and Richard Hartley.

The mission programme was as follows:

- preparation of the mission by the Assembly, Vienna, 10 September, 8 pm
- briefing of the observers by the OSCE, Vienna, 11 September
- travel to Bosnia, 12 September
- visits to deployment areas and polling stations, and meetings with politicians, 13 September
- observation of the elections, 14 September
- debriefing, 15 September
- return to Vienna, 16 September.

For the Vienna briefing and the organisation of the trip, the OSCE had employed a private agency (GJW - Government Relations Ltd - Andrew Ellis); for the travel itself it used the IFOR air force.

The OSCE had recruited long-term observers (LTOs) who had been in the area since July to organise the deployment of the observers, each taking responsibility for a specific area. (For example, Dutch observers had been assigned to Sarajevo and Bihac, and had prepared very detailed files on each of the municipalities within the Sarajevo canton).

The OSCE had employed another private agency (Crown Agents) to organise the logistics of accommodation, transport and local interpreters. Agency staff had been in Bosnia since mid-August in order, *inter alia*, to recruit and test chauffeurs, locate vehicles in good working condition, recruit interpreters and give them aptitude tests, and find accommodation, often in private homes or small hotels, for the visiting observers. Crown Agents did a remarkable job, and there were no shortcomings to report. They have considerable experience in this field, having organised the logistical side of the recent elections in the Palestinian territories.

The task of providing information for the observers was executed well. The OSCE published a special observers' manual which included information on the elections and the attitude observers should adopt, practical information on the country and, for example, information on the risk of mines. (The IFOR estimates that there are 6 million active mines in Bosnia.) It also contained specific questions for the debriefing. Special questionnaires for evaluating the procedure in each polling station visited had also been distributed.

In mid-August the OSCE had also published a manual in Bosnian for returning officers, which was updated at the end of August; it had been translated into English for the observers.

The briefing in Vienna had covered the following topics:

- general approach to the observation in Bosnia and Herzegovina
- electoral laws and regulations
- the political situation and the campaign environment
- voting arrangements and observation analysis forms
- logistics
- safety and communication.

In all, about 3000 such observers went to Bosnia. This contingent was supplemented by observers recruited from NGOs already active in Bosnia, who made their own way there.

Nonetheless, one serious problem should be pointed out. English alone was used for all the arrangements made by the OSCE, including the briefing in Vienna and the interpreters in Bosnia and Herzegovina. This had not been made clear, and proved to be a major difficulty for some of the CLRAE observers.

Although the OSCE's arrangements seemed almost perfect, we could not help thinking that in many cases the operation amounted to 'using a sledgehammer to crack a nut', in that the various OSCE observers and supervisors almost began to tread on one another's toes in the different polling stations. The attitude of the OSCE 'supervisors' to the Council of Europe 'observers' was not always very co-operative, perhaps because in general the 'supervisors' did not have as much election observation experience as the CLRAE delegation.

All of this did not alter the fact that less care was given to certain aspects of the voting, such as the preparation of the electoral rolls and the instructions concerning the procedure to be followed once polling stations had been closed. From this point of view, the arrangements were far from perfect.

Nonetheless, we must question our own observation procedures, which at this stage are a long way from the OSCE's degree of perfection and risk leaving many issues unresolved if we aim to replace the OSCE, as in the Albanian municipal elections.

The OSCE only accepted observers who were prepared to participate in the whole mission. The Congress observers were deployed as follows:

- Sarajevo: Mr Martini and Mr Bohner
- Tuzla: Mr Kantarzis and Ms Stamati
- Zenica: Mr Bodfish
- Banja Luka: Mr Chénard
- Bihac: Mr Hartley.

The areas selected formed a good barometer of the political climate. For example, Bihac and its environs (out to Bosanska Krupa and Otaka in the east and Velida Kladusa in the north, on the frontier with Croatia), was one of the regions most affected by the war. The risk of tension there was not inconsiderable, given the number of displaced persons who had to cross the IEBL line in order to vote. The difficult political climate was further exacerbated by the armed conflict which took place between two Muslim groups (Mr Izetbegovic's 5th Army and the partisans of Mr Abdic), and by the proximity of the Croat frontier and its sphere of influence.

Bihac and the surrounding region were an almost exclusively Muslim area and are now even more so. Although Bihac-town remains relatively intact, almost all of the surrounding villages were systematically and completely destroyed after the Serbian advance on the hills around Bihac. The region was also affected by significant ethnic cleansing and the presence of Serbian concentration camps, particularly in the east near Sanski Most and Priedor.

Along with the Congress members' mission, the President, Claude Haegi, made an official journey to Sarajevo on Sunday 15 September. He wanted to go to Bosnia during the elections to participate as much as he could in the observation, and to hold a meeting of the *local democracy embassies*, which will be discussed in a separate report.

Mr Haegi arrived at 3 pm on 15 September from Split, in an OSCE aeroplane. In the evening, he was able to observe vote counting in the Sarajevo town hall counting centre. The counting committee, which included a large number of Japanese delegates, had just counted a quarter of the ballot papers for the Presidency of Bosnia and Herzegovina, from 83 polling stations.

## **II. Background to the elections**

The elections in Bosnia took place on the deadline set by the Dayton Agreements as the last possible date, 14 September 1996. The Dayton Agreements had entrusted the supervision, preparation and implementation of the elections in Bosnia to the OSCE, with the possibility of the supervision itself being carried out in conjunction with other international organisations.

Four elections were held in each of the two entities (the Federation of Bosnia and Herzegovina - FBiH - and the Republika Srpska - RS). Two elections were common to both entities:

- the election of the collegial Presidency of Bosnia and Herzegovina.
- the election of the House of Representatives of Bosnia and Herzegovina.

- The two other elections were separate:
- in the Serb Republic, elections were held for the National Assembly and the Presidency of the Republic.
  - in the Federation of Bosnia and Herzegovina, elections were held for the House of Representatives of the Federation and the cantonal legislatures.

Naturally, the latter elections were of particular interest to Congress members. All the elections were organised by a Provisional Election Commission made up of representatives of the two entities and international representatives. Mr Van Thijn co-ordinated proceedings overall.

Owing to a certain number of irregularities observed, especially with regard to voter registration, the OSCE decided to suspend the municipal elections which were also scheduled for the same day. They were postponed until a later date. The same arguments could have been used to justify postponing the cantonal elections, but in the Federation of Bosnia and Herzegovina those elections were necessary for the election of the Federation's second House, which in turn, together with the House of Representatives, had to elect the Presidency of the Federation.

### **III. Conduct and irregularities**

On the whole, despite the reservations of a number of independent observers, these elections carried out in very difficult conditions deserve to be considered a success, at least in terms of the technical organisation and in that they unquestionably constitute a step in the direction of peace and reconstruction. In spite of a number of acts of violence which can only be described as intimidation, committed for example by SDA partisans against opposition politicians such as Haris Silajdžić and Zlatko Lagumdžija, the elections took place in a climate featuring very little violence and much public-spiritedness, in a country which had just emerged from a state of war. The enthusiasm with which many voters went to the polls, the disappointment that some felt upon discovering that they were not on the electoral rolls or were not able to vote where they had intended to, and the diligence and competence with which, in the great majority of polling stations, the returning officers and local election committees carried out their duties, bear witness to a certain political maturity and a desire to prove to Europe and to international observers that Bosnia and Herzegovina should be considered part of the community of European states.

The voters' good humour and optimism about the future, regardless of their origins, reinforce the theory that the war was generated less by historic ethnic rivalries than by manipulation on the part of a small group of politicians - even though, for those who lost and suffered a great deal in the war, feelings of hostility will undoubtedly last a long time.

On the other hand, there is still a great deal of concern as to the effect these elections will have on the unity of the country as a whole. Although some now consider that the elections served to cement and legitimate the division of the country into two or even three entities which, thanks to the new-found legitimacy of the various representatives, will seek

their independence, others think that the necessity for the newly-elected representatives to work together should induce them to provide at least a minimum of unity for the country as a whole. The very task of these elected representatives should in fact serve as a driving force. However, it is too soon to answer such questions at this stage.

Consequently, although a positive impression is left overall, it is important not to overlook the problems that characterised the political environment in which the elections were held, and the irregularities within the elections themselves.

Firstly, the international community's failure to ensure the full enforcement of the Dayton Agreements should obviously be condemned. One of the conditions set in those agreements, citizens' freedom of movement throughout the territory, is clearly a long way from being fulfilled. The IFOR only cleared a small number of roads on which it considered that it could guarantee freedom of movement for the day. An observer who crossed the inter-entity boundary line (IEBL) in spite of his chauffeur's reluctance noted that the (Serb) policeman there said to the chauffeur, "It's all right today, but if you come back tomorrow...", and then made a gesture of cutting the man's head off. Another Dayton illusion is the return of refugees to their homes. In fact, the very restricted freedom of movement established for election day did not enable refugees to go back to their homes, as they often had to vote in special polling stations set up outside the towns or villages to which they were supposed to return. Apart from destroyed homes which make it difficult for people to return, it now seems to be established that Bosnian refugees will not be able to return to their homes in the Republika Srpska and that Serbs will not dare to return to houses they left behind in the Federation of Bosnia and Herzegovina. Similar apprehension exists between Muslims and Croats. Lastly, the international community has not enforced the Dayton Agreements as regards the arrest of war criminals. Mr Karadžić was able to vote in Pale without the slightest disturbance from the IFOR, which should however have been present. Moreover, the Croat state of Herzeg-Bosna, which was supposed to be dissolved under the Dayton Agreements, still exists as a sort of unacknowledged 3rd entity.

As regards the elections themselves, information provided to citizens was insufficient, late and very biased. In particular, the OSCE was very late in arranging for independent information to be broadcast on radio and television. A large number of voters consequently lacked information about many aspects of the ballot, even if they did know that electoral rolls had been published and that they could read them and even have them amended. People seemed especially uninformed about the cantonal elections, which went almost unnoticed by voters: many of them suddenly discovered a fourth paper when they arrived at polling stations. Once again, it was difficult for voters to make their choice, in that candidates' names were clearly displayed in the polling station entrance hall but it could be very difficult for voters to remember those names in the booths, where voting papers only gave the names of the parties for which candidates were standing. Furthermore, media hype by the nationalist parties throughout the period leading up to the elections undoubtedly had a decisive influence on the outcome.

Another major problem was the electoral rolls themselves. Citizens were supposed to vote in the municipalities in which they had been living at the time of the 1991 census. Only those whose names appeared in the 1991 census were eligible to vote. This provision meant, for example, that Bosnians who had been living abroad or even in other Yugoslav

republics in 1991 were denied the right to vote. Rolls were published in July 1996 for consultation by voters, who could then request that they be amended. However, many voters had consulted those rolls and checked that their names were included, but later found that their names did not appear on the final rolls published a few days before polling day and available in polling stations. There seem to have been a large number of transcription errors, sometimes affecting up to 30% of the rolls. The rate of mistakes was generally around 5 to 10%. Classification of voters by date of birth rather than alphabetical order meant that it was difficult to find a name on the list if an error had been made in the date of birth.

In exceptional cases, people could apply to vote not where they had been living in 1991, but in the municipality they intended to live in the future; displaced persons could apply to cast their votes in the municipalities they were currently living in, but would be voting for the municipalities in which they had been living before the war ("absentee voting"). Abuses seem to have occurred, particularly in the first case, where many people who had never lived in areas such as Srebrenica, Žepa or Brčko enrolled to vote there. A large number of absentee votes were cast by displaced persons in their current areas of residence, many of them fearing to return in person to the places they had fled during the war. With regard to names omitted from the rolls, voters were sometimes able to remedy the situation by going to the municipality in question, where a comparison between the two rolls showed that they had in fact resided in the municipality in 1991. In practice, not many voters took advantage of this option, especially if they were elderly or disabled.

Nobody was able to say how many voters were finally registered either in the territory of Bosnia and Herzegovina as a whole or in a particular 'obština'. In any event, this was impossible to determine with regard to the polling itself, as people could vote in any polling station within their municipality. In the circumstances, it was impossible to get a clear idea of the turnout.

In some regions, particularly around Bihac, the delegation was informed that returning officers had used their influence to 'guide' voters in their choice, under the pretext of explaining the procedure to them.

The delegation also saw a number of campaign posters, especially for the majority parties, in the vicinity of polling stations on election day.

At the end of voting at 7 pm, there were cases of ballot boxes not being closed correctly with the equipment provided by the OSCE; moreover, that equipment was much too flimsy and easy to replace. It was not possible for voters who were ill to vote on polling day.

Another problem was the cramped nature of certain polling stations, some of which had been set up in private homes as many public buildings had been destroyed or were unusable. Cramped conditions in polling stations made it difficult for votes to be secret, as there were sometimes large numbers of voters squeezed behind polling booths. A further difficulty was the fact that the voting papers were printed in very small characters, which made them difficult to read for many elderly people who couldn't see very well and couldn't afford glasses. This was a perfect opportunity for certain returning officers and even for observers from certain parties to make themselves 'useful' by helping such people to fill out their ballot papers in the polling booths. Another aspect which caused a great deal of

agitation was the fact that the rules of the Provisional Election Commission stated that ballot papers should be filled out in pencil. Many voters were worried that their ballot papers would be tampered with after the vote. Sealed ballot boxes and very strict OSCE supervision of counting centres meant that such a hypothesis was unlikely. However, in order to reassure voters, many polling stations eventually allowed voters to fill out their ballot papers in ink.

Closing the polling stations often presented difficulties, in particular owing to a lack of instructions from the OSCE. In certain cases, this gave rise to lengthy discussions with returning officers, local police, the IFOR and eventually the OSCE. There were clearly problems in the co-operation between the OSCE and the IFOR.

The delegation heard about a number of shortcomings and some almost chaotic situations in counting centres. In Bihac, for example, ballot boxes were piled up on top of one another and the atmosphere was more appropriate to a railway station than a counting centre.

#### **IV. The issues raised by the cantonal elections**

The Dayton Agreements provided that cantonal and municipal elections should be held if it were feasible. The Dayton Agreements did not specify that this clause only applied to one of the Bosnia and Herzegovina entities. However, in the Republika Srpska no-one ever thought to create cantons, and the international community does not seem to have insisted on it.

Along with the 140 municipalities (which also formed the constituencies for this election), ten cantons were set up in the Federation, with between 15 and 59 members to be elected to a single-house cantonal legislature. Voters could vote for one party or for an independent candidate. An independent candidate did in fact stand in the Sarajevo canton. In that canton, Mr Kupusovic headed the liberals' list of candidates, whereas Mrs Hadžovic, the current President of the canton, did not feature on her party's (SDA) list of candidates. The outcome of these cantonal elections may not be very clear, given that the ballot papers contained only party names and did not include the names of the candidates. Seats were to be allocated according to a proportional representation system which combined the Hare system and the 'largest remainder' system. As in the other elections held on 14 September, the term of office for the cantonal legislatures is two years.

Nevertheless, many issues remain unresolved:

- what would be the relationship between these elected cantonal legislatures and a possible cantonal executive?
- what powers will the elected cantonal legislatures have?
- what role will the cantonal legislatures play in electing the Upper House or Senate of the Federation of Bosnia and Herzegovina, which, along with the House of Representatives elected at the same time, must in turn elect the Presidency of the Federation?
- what will be the division of powers between the cantons, the municipalities, the Federation and the authorities of Bosnia and Herzegovina as a whole?



- lastly, a crucial issue remains unresolved. In the Federation, certain cantons must be monoethnic (in the Croat section or the Muslim section), whereas others must be mixed or multiethnic, as is the case in Mostar for example. The status of the Sarajevo canton does not seem to have been defined in this respect. Whereas Mr Kupusovic and other opposition party representatives are in favour of a mixed, multiethnic Sarajevo canton, SDA representatives seem to want Sarajevo to be turned into a Muslim canton. It is not clear who will eventually decide on the canton's status, nor how much weight the cantonal election results will carry in the decision. The international community will probably have to bring considerable pressure to bear in this respect, with the aim of enabling Mr Steiner or Mr Bildt to settle the issue in favour of a multiethnic Sarajevo canton. We should therefore be very vigilant, and the CLRAE and the Council of Europe as a whole should exert pressure to ensure that Sarajevo is multiethnic.

## **V. The municipal elections and prospects for holding them**

Bosnia and Herzegovina was originally made up of 109 fairly large municipalities which shared the country's 3 million voters. However, following the country's division into two entities, the Federation of Bosnia and Herzegovina and the Republika Srpska, there are now 140 municipalities, many of them duplicated on either side of the IEBL (Inter-entity boundary line). A list and map of those municipalities or 'obštinas' is appended to this report. It has not been possible so far to obtain a list and map of the cantons.

The main reason for postponing the municipal elections seems to have been the fact that electoral rolls were tampered with, particularly with regard to refugee votes, but also with regard to the massive enrolment by displaced persons in certain municipalities with contested ethnic compositions. As the national elections highlighted numerous problems associated with the current state of the electoral rolls, it seemed preferable to carry out an in-depth revision of the electoral rolls and possibly of the conditions for enrolment, with a view to the municipal elections. Although some people would like the municipal elections to be held as soon as possible, in November for instance, others, including certain opposition leaders, would like more time to prepare for these municipal elections and would prefer them to be held next spring.

This is the only solution which would make it possible to settle the fundamental problem of the electoral rolls. In particular, one might ask whether, for municipal elections which relate to future municipal management, it is appropriate to allow refugees who will never return to the municipalities in question to vote; the same applies to absentee voters who will never go back to municipalities which are now in the other entity or are dominated by a different ethnic group. In these circumstances, it would be reasonable to limit municipal voters to those who actually live in the municipality or who will at least go there in person to vote and clearly demonstrate an intention to live there subsequently. Any other procedure is mere window-dressing, and will simply feed illusions liable to generate fresh conflicts.

However, these municipal elections also raise a whole series of further issues:

- will the municipal elections be held simultaneously in the Federation and in the Republika Srpska?
- who will set the conditions in which the municipal elections will be held: the legislatures of the two entities, the legislature of Bosnia and Herzegovina as a whole, or the OSCE?
- or, at least in the Federation of Bosnia and Herzegovina, will it be left up to the newly-elected cantonal legislatures to set the conditions for the municipal elections?
- who will be asked to observe the elections: will the arrangements be made by the OSCE again, or will there be a standard observation system with each organisation sending its own observers to the municipal elections as it sees fit?
- who will set the date of the municipal elections?
- what powers will the elected municipalities have, especially in relation to the cantons?
- will it simply be a matter of electing municipal governing authorities, or will the president of the municipality also be elected directly, as is the case in many European countries?

However these issues are decided, it is vital for the CLRAE and the Council of Europe to play an active role in the preparation of these municipal elections, in various ways:

- the CLRAE should have more freedom of action in the municipal elections, even if it is necessary to work in consultation with the OSCE for safety and accreditation reasons. It is important that CLRAE delegates have greater influence and more room for manoeuvre in selecting their programme, the places they will visit and the party representatives they will meet.
- it would be useful to 'tighten up' the programme in the future. The briefing in Vienna could have been far more concentrated, and a whole day in Bosnia and Herzegovina was wasted in visiting polling stations on the eve of the election; this was not very useful, given that many of them were closed.
- the first part of our report on local and regional democracy in Bosnia and Herzegovina should be implemented urgently.
- the Council of Europe should urgently offer its assistance to the newly-elected Bosnian authorities for all the legislative and practical aspects of preparing the municipal elections (legislative assistance in drafting laws on local self-government and municipal elections, and practical assistance in organising the elections).
- Bosnian political circles should urgently be prepared for the holding of these municipal elections, *inter alia* through organisation of (preferably decentralised) training seminars in places such as Sarajevo, Tuzla, Zenica, Bihac, and possibly Banja Luka, Pale, Brčko and so on. We have already made enough contacts with political

parties and civic movements and through the local democracy embassies to be able to invite representatives of civil society, political parties involved in election preparation and possible election candidates to such seminars. The training seminars, which should be attended by experts from other European countries, would also have the advantage of providing a multipartite basis for discussions between the different party leaders, thereby giving them advance experience of the kind of democratic co-operation that will have to be established within the municipal councils in the future.

However, such seminars require funding and staff with sufficient training to be able to organise them in a relatively short time (by the end of the year or right at the beginning of next year). From this perspective, it would be of considerable benefit to hold the municipal elections somewhat later. In the coming months, this should be a priority activity for the CLRAE, the LODE programme and the Council of Europe generally.

It should also be mentioned that the consultant accompanying the Parliamentary Assembly delegation, Dr Malcolm (Oxford University), was very much appreciated; his expertise could be very useful for the CLRAE in preparing its mission to observe the municipal elections.

## **VI. Political prospects**

The development of the cantons in the Federation of Bosnia and Herzegovina and the preparation and holding of municipal elections are crucial issues for the CLRAE and probably for the Council of Europe of a whole. There is a need to define the institutional framework for the cantons and municipalities in more detail, and to decide on their powers and mode of operation, including the relationship between the legislatures and the executives of the two levels. The content of the municipal elections will also need to be specified (is it simply the legislatures that will be elected or will the mayors also be elected directly?).

These are all crucial issues for the country's future, not least from the perspective of its accession to the Council of Europe. The Council of Europe could play a key role in this process, provided it makes available the required resources, both in financial terms and in terms of staff and equipment (vehicles). The Council of Europe office in Sarajevo, along with the *local democracy embassies*, could act as a vital link in such a process. Round tables, seminars and training could be organised.

There is also an urgent need to begin an evaluation of the situation of local and regional democracy in Bosnia and Herzegovina, and to develop legislative and training assistance for the newly-elected authorities in respect of the institutional aspects of the cantons and municipalities, which are still very vague.